

1 A bill to be entitled
2 An act relating to health care services rulemaking;
3 amending s. 390.012, F.S.; revising rulemaking
4 authority relating to the operation of certain
5 abortion clinics; amending s. 400.021, F.S.; revising
6 the definition of the term "nursing home bed" to
7 remove rulemaking authority for determining minimum
8 space requirements for nursing home beds; amending s.
9 400.0712, F.S.; removing rulemaking authority relating
10 to inactive nursing home facility licenses; amending
11 s. 400.23, F.S.; revising general rulemaking authority
12 relating to nursing homes and certain health care
13 providers; amending s. 400.487, F.S.; removing
14 rulemaking authority relating to orders not to
15 resuscitate presented to home health agency personnel;
16 amending s. 400.497, F.S.; revising rulemaking
17 authority relating to the Home Health Services Act;
18 amending s. 400.506, F.S.; removing rulemaking
19 authority relating to the licensure of nurse
20 registries and the establishment of certain emergency
21 management plans; amending s. 400.509, F.S.; removing
22 rulemaking authority relating to registration of
23 certain companion services and homemaker services;
24 amending s. 400.6095, F.S.; removing rulemaking
25 authority relating to orders not to resuscitate

26 presented to a hospice care team; amending s. 400.914,
 27 F.S.; revising rulemaking authority relating to
 28 standards for prescribed pediatric extended care
 29 (PPEC) centers; removing rulemaking authority relating
 30 to certain limitations on PPEC centers; creating s.
 31 400.9141, F.S.; providing limitations on PPEC centers;
 32 amending s. 400.934, F.S.; revising rulemaking
 33 authority relating to the preparation of emergency
 34 managements plans by home medical equipment providers;
 35 amending s. 400.935, F.S.; revising rulemaking
 36 authority relating to minimum standards for home
 37 medical equipment providers; amending s. 400.962,
 38 F.S.; removing rulemaking authority relating to
 39 certain standards for active treatment by intermediate
 40 care facilities for the developmentally disabled;
 41 amending s. 400.967, F.S.; revising rulemaking
 42 authority relating to the construction of, the
 43 preparation of emergency management plans by, and the
 44 classification of deficiencies of intermediate care
 45 facilities for the developmentally disabled;
 46 amending s. 400.980, F.S.; removing rulemaking
 47 authority relating to the registration of health care
 48 services pools; amending s. 409.912, F.S.; removing
 49 rulemaking authority relating to Medicaid provider
 50 lock-in programs; amending s. 429.255, F.S.; removing

51 rulemaking authority relating to orders not to
 52 resuscitate presented to assisted living facility
 53 staff and the use of automated external
 54 defibrillators; amending s. 429.73, F.S.; removing
 55 rulemaking authority relating to orders not to
 56 resuscitate presented to adult family-care home
 57 providers; amending s. 440.102, F.S.; removing
 58 rulemaking authority relating to certain guidelines
 59 for drug-free workplace laboratories; amending s.
 60 483.245, F.S.; revising rulemaking authority relating
 61 to the imposition of certain administrative penalties
 62 against clinical laboratories; amending s. 765.541,
 63 F.S.; revising rulemaking authority relating to
 64 standards and guidelines for certain organ donation
 65 programs; amending s. 765.544, F.S., removing
 66 rulemaking authority relating to administrative
 67 penalties for violations with respect to organ and
 68 tissue donations; providing an effective date.

70 WHEREAS, rulemaking is not a matter of agency discretion;
 71 rulemaking authority is delegated by the Legislature for
 72 agencies to adopt statements of general applicability that
 73 interpret or implement law; the valid adoption of a rule
 74 requires both a grant of express rulemaking authority and a
 75 specific law to be implemented or interpreted, and

76 WHEREAS, the repeal or deletion of a redundant or
 77 unnecessary provision authorizing agency rulemaking does not
 78 repeal rulemaking authority otherwise provided that clearly
 79 applies to the same subject, and

80 WHEREAS, statutory provisions mandating rules, when the
 81 substantive law otherwise would be implemented either without
 82 need for administrative rules or by rulemaking under a broader
 83 grant of authority, may be repealed without altering the
 84 substantive law or rulemaking authority on which existing rules
 85 rely, NOW THEREFORE

86
 87 Be It Enacted by the Legislature of the State of Florida:

88
 89 Section 1. Paragraph (d) of subsection (3) of section
 90 390.012, Florida Statutes, is amended to read:

91 390.012 Powers of agency; rules; disposal of fetal
 92 remains.—

93 (3) For clinics that perform or claim to perform abortions
 94 after the first trimester of pregnancy, the agency shall adopt
 95 rules pursuant to ss. 120.536(1) and 120.54 to implement the
 96 provisions of this chapter, including the following:

97 (d) Rules relating to the medical screening and evaluation
 98 of each abortion clinic patient. At a minimum, these rules shall
 99 require:

100 1. A medical history, including reported allergies to

101 medications, antiseptic solutions, or latex; past surgeries; and
 102 an obstetric and gynecological history.

103 2. A physical examination, including a bimanual
 104 examination estimating uterine size and palpation of the adnexa.

105 3. The appropriate laboratory tests, including:

106 a. Urine or blood tests for pregnancy performed before the
 107 abortion procedure.

108 b. A test for anemia.

109 c. Rh typing, unless reliable written documentation of
 110 blood type is available.

111 d. Other tests as indicated from the physical examination.

112 4. An ultrasound evaluation for all patients. The rules
 113 shall require that if a person who is not a physician performs
 114 an ultrasound examination, that person shall have documented
 115 evidence that he or she has completed a course in the operation
 116 of ultrasound equipment as prescribed in rule. ~~The rules shall~~
 117 ~~require clinics to be in compliance with s. 390.0111.~~

118 5. That the physician is responsible for estimating the
 119 gestational age of the fetus based on the ultrasound examination
 120 and obstetric standards in keeping with established standards of
 121 care regarding the estimation of fetal age as defined in rule
 122 and shall write the estimate in the patient's medical history.
 123 The physician shall keep original prints of each ultrasound
 124 examination of a patient in the patient's medical history file.

125 Section 2. Subsection (11) of section 400.021, Florida

126 Statutes, is amended to read:

127 400.021 Definitions.—When used in this part, unless the
128 context otherwise requires, the term:

129 (11) "Nursing home bed" means an accommodation that ~~which~~
130 is ready for immediate occupancy, or is capable of being made
131 ready for occupancy within 48 hours, excluding provision of
132 staffing; and that ~~which~~ conforms to minimum space requirements,
133 including the availability of appropriate equipment and
134 furnishings within the 48 hours, as specified by ~~rule~~ of the
135 agency, for the provision of services specified in this part to
136 a single resident.

137 Section 3. Subsection (3) of section 400.0712, Florida
138 Statutes, is amended to read:

139 400.0712 Application for inactive license.—

140 ~~(3) The agency shall adopt rules pursuant to ss.~~
141 ~~120.536(1) and 120.54 necessary to implement this section.~~

142 Section 4. Subsection (2), paragraph (a) of subsection
143 (3), subsections (4) and (5), paragraph (e) of subsection (7),
144 and subsection (8) of section 400.23, Florida Statutes, are
145 amended to read:

146 400.23 Rules; evaluation and deficiencies; licensure
147 status.—

148 (2) Pursuant to the intention of the Legislature, the
149 agency, in consultation with the Department of Health and the
150 Department of Elderly Affairs, may ~~shall~~ adopt ~~and enforce~~ rules

151 to implement this part and part II of chapter 408. The rules,
152 ~~which shall include,~~ but need not be limited to, reasonable and
153 fair criteria in relation to:

154 (a) The location of the facility and housing conditions
155 that will ensure the health, safety, and comfort of residents,
156 including an adequate call system. In making such rules, the
157 agency shall be guided by criteria recommended by nationally
158 recognized reputable professional groups and associations with
159 knowledge of such subject matters. The agency shall update or
160 revise such criteria as the need arises. The agency may require
161 alterations to a building if it determines that an existing
162 condition constitutes a distinct hazard to life, health, or
163 safety. In performing any inspections of facilities authorized
164 by this part or part II of chapter 408, the agency may enforce
165 the special-occupancy provisions of the Florida Building Code
166 and the Florida Fire Prevention Code which apply to nursing
167 homes. Residents or their representatives shall be able to
168 request a change in the placement of the bed in their room,
169 provided that at admission they are presented with a room that
170 meets requirements of the Florida Building Code. The location of
171 a bed may be changed if the requested placement does not
172 infringe on the resident's roommate or interfere with the
173 resident's care or safety as determined by the care planning
174 team in accordance with facility policies and procedures. In
175 addition, the bed placement may not be used as a restraint. Each

176 facility shall maintain a log of resident rooms with beds that
177 are not in strict compliance with the Florida Building Code in
178 order for such log to be used by surveyors and nurse monitors
179 during inspections and visits. A resident or resident
180 representative who requests that a bed be moved shall sign a
181 statement indicating that he or she understands the room will
182 not be in compliance with the Florida Building Code, but they
183 would prefer to exercise their right to self-determination. The
184 statement must be retained as part of the resident's care plan.
185 Any facility that offers this option must submit a letter signed
186 by the nursing home administrator of record to the agency
187 notifying it of this practice with a copy of the policies and
188 procedures of the facility. The agency is directed to provide
189 assistance to the Florida Building Commission in updating the
190 construction standards of the code relative to nursing homes.

191 (b) The number and qualifications of all personnel,
192 including management, medical, nursing, and other professional
193 personnel, and nursing assistants, orderlies, and support
194 personnel, having responsibility for any part of the care given
195 residents.

196 (c) All sanitary conditions within the facility and its
197 surroundings, including water supply, sewage disposal, food
198 handling, and general hygiene which will ensure the health and
199 comfort of residents.

200 (d) The equipment essential to the health and welfare of

201 the residents.

202 (e) A uniform accounting system.

203 (f) The care, treatment, and maintenance of residents and
 204 measurement of the quality and adequacy thereof, based on rules
 205 developed under this chapter and the Omnibus Budget
 206 Reconciliation Act of 1987 (Pub. L. No. 100-203) (December 22,
 207 1987), Title IV (Medicare, Medicaid, and Other Health-Related
 208 Programs), Subtitle C (Nursing Home Reform), as amended.

209 (g) The preparation and annual update of a comprehensive
 210 emergency management plan. The agency shall establish ~~adopt~~
 211 ~~rules establishing~~ minimum criteria for the plan after
 212 consultation with the Division of Emergency Management. At a
 213 minimum, ~~the rules must provide for~~ plan components shall
 214 provide for ~~that address~~ emergency evacuation transportation;
 215 adequate sheltering arrangements; postdisaster activities,
 216 including emergency power, food, and water; postdisaster
 217 transportation; supplies; staffing; emergency equipment;
 218 individual identification of residents and transfer of records;
 219 and responding to family inquiries. The comprehensive emergency
 220 management plan is subject to review and approval by the local
 221 emergency management agency. During its review, the local
 222 emergency management agency shall ensure that the following
 223 agencies, at a minimum, are given the opportunity to review the
 224 plan: the Department of Elderly Affairs, the Department of
 225 Health, the Agency for Health Care Administration, and the

226 Division of Emergency Management. Also, appropriate volunteer
 227 organizations must be given the opportunity to review the plan.
 228 The local emergency management agency shall complete its review
 229 within 60 days and either approve the plan or advise the
 230 facility of necessary revisions.

231 (h) The availability, distribution, and posting of reports
 232 and records pursuant to s. 400.191 and the Gold Seal Program
 233 pursuant to s. 400.235.

234 (3) (a) 1. The agency shall enforce ~~adopt rules providing~~
 235 minimum staffing requirements for nursing home facilities that.
 236 ~~These requirements~~ must include, for each facility:

237 a. A minimum weekly average of certified nursing assistant
 238 and licensed nursing staffing combined of 3.6 hours of direct
 239 care per resident per day. As used in this sub-subparagraph, a
 240 week is defined as Sunday through Saturday.

241 b. A minimum certified nursing assistant staffing of 2.5
 242 hours of direct care per resident per day. A facility may not
 243 staff below one certified nursing assistant per 20 residents.

244 c. A minimum licensed nursing staffing of 1.0 hour of
 245 direct care per resident per day. A facility may not staff below
 246 one licensed nurse per 40 residents.

247 2. Nursing assistants employed under s. 400.211(2) may be
 248 included in computing the staffing ratio for certified nursing
 249 assistants if their job responsibilities include only nursing-
 250 assistant-related duties.

251 3. Each nursing home facility must document compliance
 252 with staffing standards as required under this paragraph and
 253 post daily the names of staff on duty for the benefit of
 254 facility residents and the public.

255 4. The agency shall recognize the use of licensed nurses
 256 for compliance with minimum staffing requirements for certified
 257 nursing assistants if the nursing home facility otherwise meets
 258 the minimum staffing requirements for licensed nurses and the
 259 licensed nurses are performing the duties of a certified nursing
 260 assistant. Unless otherwise approved by the agency, licensed
 261 nurses counted toward the minimum staffing requirements for
 262 certified nursing assistants must exclusively perform the duties
 263 of a certified nursing assistant for the entire shift and not
 264 also be counted toward the minimum staffing requirements for
 265 licensed nurses. If the agency approved a facility's request to
 266 use a licensed nurse to perform both licensed nursing and
 267 certified nursing assistant duties, the facility must allocate
 268 the amount of staff time specifically spent on certified nursing
 269 assistant duties for the purpose of documenting compliance with
 270 minimum staffing requirements for certified and licensed nursing
 271 staff. The hours of a licensed nurse with dual job
 272 responsibilities may not be counted twice.

273 (4) ~~Rules developed pursuant to~~ This section does ~~shall~~
 274 not restrict the use of shared staffing and shared programming
 275 in facilities that ~~which~~ are part of retirement communities that

276 provide multiple levels of care and otherwise meet the
 277 requirement of law or rule.

278 (5) (a) The agency, in collaboration with the Division of
 279 Children's Medical Services of the Department of Health, may
 280 establish ~~must adopt rules for:~~

281 ~~(a)~~ minimum standards of care for persons under 21 years
 282 of age who reside in nursing home facilities. A facility may be
 283 exempted from these standards and the requirements of paragraph
 284 (b) for specific persons between 18 and 21 years of age, if the
 285 person's physician agrees that minimum standards of care based
 286 on age are not necessary.

287 (b) The following ~~Minimum~~ staffing requirements for
 288 persons under 21 years of age who reside in nursing home
 289 facilities, ~~which~~ apply in lieu of the requirements contained in
 290 subsection (3) :-

291 1. For persons under 21 years of age who require skilled
 292 care:

293 a. A minimum combined average of 3.9 hours of direct care
 294 per resident per day must be provided by licensed nurses,
 295 respiratory therapists, respiratory care practitioners, and
 296 certified nursing assistants.

297 b. A minimum licensed nursing staffing of 1.0 hour of
 298 direct care per resident per day must be provided.

299 c. No more than 1.5 hours of certified nursing assistant
 300 care per resident per day may be counted in determining the

301 minimum direct care hours required.

302 d. One registered nurse must be on duty on the site 24
303 hours per day on the unit where children reside.

304 2. For persons under 21 years of age who are medically
305 fragile:

306 a. A minimum combined average of 5.0 hours of direct care
307 per resident per day must be provided by licensed nurses,
308 respiratory therapists, respiratory care practitioners, and
309 certified nursing assistants.

310 b. A minimum licensed nursing staffing of 1.7 hours of
311 direct care per resident per day must be provided.

312 c. No more than 1.5 hours of certified nursing assistant
313 care per resident per day may be counted in determining the
314 minimum direct care hours required.

315 d. One registered nurse must be on duty on the site 24
316 hours per day on the unit where children reside.

317 (7) The agency shall, at least every 15 months, evaluate
318 all nursing home facilities and make a determination as to the
319 degree of compliance by each licensee with the established rules
320 adopted under this part as a basis for assigning a licensure
321 status to that facility. The agency shall base its evaluation on
322 the most recent inspection report, taking into consideration
323 findings from other official reports, surveys, interviews,
324 investigations, and inspections. In addition to license
325 categories authorized under part II of chapter 408, the agency

326 shall assign a licensure status of standard or conditional to
 327 each nursing home.

328 (e) The agency shall ~~adopt rules that~~:

329 1. Establish uniform procedures for the evaluation of
 330 facilities.

331 2. Provide criteria in the areas referenced in paragraph
 332 (c).

333 3. Address other areas necessary for carrying out the
 334 intent of this section.

335 (8) The agency shall ensure that ~~adopt rules pursuant to~~
 336 ~~this part and part II of chapter 408 to provide that~~, when the
 337 criteria established under subsection (2) are not met, such
 338 deficiencies shall be classified according to the nature and the
 339 scope of the deficiency. The scope shall be cited as isolated,
 340 patterned, or widespread. An isolated deficiency is a deficiency
 341 affecting one or a very limited number of residents, or
 342 involving one or a very limited number of staff, or a situation
 343 that occurred only occasionally or in a very limited number of
 344 locations. A patterned deficiency is a deficiency where more
 345 than a very limited number of residents are affected, or more
 346 than a very limited number of staff are involved, or the
 347 situation has occurred in several locations, or the same
 348 resident or residents have been affected by repeated occurrences
 349 of the same deficient practice but the effect of the deficient
 350 practice is not found to be pervasive throughout the facility. A

351 widespread deficiency is a deficiency in which the problems
352 causing the deficiency are pervasive in the facility or
353 represent systemic failure that has affected or has the
354 potential to affect a large portion of the facility's residents.
355 The agency shall indicate the classification on the face of the
356 notice of deficiencies as follows:

357 (a) A class I deficiency is a deficiency that the agency
358 determines presents a situation in which immediate corrective
359 action is necessary because the facility's noncompliance has
360 caused, or is likely to cause, serious injury, harm, impairment,
361 or death to a resident receiving care in a facility. The
362 condition or practice constituting a class I violation shall be
363 abated or eliminated immediately, unless a fixed period of time,
364 as determined by the agency, is required for correction. A class
365 I deficiency is subject to a civil penalty of \$10,000 for an
366 isolated deficiency, \$12,500 for a patterned deficiency, and
367 \$15,000 for a widespread deficiency. The fine amount shall be
368 doubled for each deficiency if the facility was previously cited
369 for one or more class I or class II deficiencies during the last
370 licensure inspection or any inspection or complaint
371 investigation since the last licensure inspection. A fine must
372 be levied notwithstanding the correction of the deficiency.

373 (b) A class II deficiency is a deficiency that the agency
374 determines has compromised the resident's ability to maintain or
375 reach his or her highest practicable physical, mental, and

376 psychosocial well-being, as defined by an accurate and
377 comprehensive resident assessment, plan of care, and provision
378 of services. A class II deficiency is subject to a civil penalty
379 of \$2,500 for an isolated deficiency, \$5,000 for a patterned
380 deficiency, and \$7,500 for a widespread deficiency. The fine
381 amount shall be doubled for each deficiency if the facility was
382 previously cited for one or more class I or class II
383 deficiencies during the last licensure inspection or any
384 inspection or complaint investigation since the last licensure
385 inspection. A fine shall be levied notwithstanding the
386 correction of the deficiency.

387 (c) A class III deficiency is a deficiency that the agency
388 determines will result in no more than minimal physical, mental,
389 or psychosocial discomfort to the resident or has the potential
390 to compromise the resident's ability to maintain or reach his or
391 her highest practical physical, mental, or psychosocial well-
392 being, as defined by an accurate and comprehensive resident
393 assessment, plan of care, and provision of services. A class III
394 deficiency is subject to a civil penalty of \$1,000 for an
395 isolated deficiency, \$2,000 for a patterned deficiency, and
396 \$3,000 for a widespread deficiency. The fine amount shall be
397 doubled for each deficiency if the facility was previously cited
398 for one or more class I or class II deficiencies during the last
399 licensure inspection or any inspection or complaint
400 investigation since the last licensure inspection. A citation

401 for a class III deficiency must specify the time within which
 402 the deficiency is required to be corrected. If a class III
 403 deficiency is corrected within the time specified, a civil
 404 penalty may not be imposed.

405 (d) A class IV deficiency is a deficiency that the agency
 406 determines has the potential for causing no more than a minor
 407 negative impact on the resident. If the class IV deficiency is
 408 isolated, no plan of correction is required.

409 Section 5. Subsection (7) of section 400.487, Florida
 410 Statutes, is amended to read:

411 400.487 Home health service agreements; physician's,
 412 physician assistant's, and advanced registered nurse
 413 practitioner's treatment orders; patient assessment;
 414 establishment and review of plan of care; provision of services;
 415 orders not to resuscitate.-

416 (7) Home health agency personnel may withhold or withdraw
 417 cardiopulmonary resuscitation if presented with an order not to
 418 resuscitate executed pursuant to s. 401.45. ~~The agency shall~~
 419 ~~adopt rules providing for the implementation of such orders.~~
 420 Home health personnel and agencies shall not be subject to
 421 criminal prosecution or civil liability, nor be considered to
 422 have engaged in negligent or unprofessional conduct, for
 423 withholding or withdrawing cardiopulmonary resuscitation
 424 pursuant to such an order ~~and rules adopted by the agency.~~

425 Section 6. Section 400.497, Florida Statutes, is amended

426 to read:

427 400.497 Rules establishing minimum standards.—The agency
 428 ~~may shall~~ adopt, ~~publish, and enforce~~ rules to implement part II
 429 of chapter 408 and this part, including the agency's duties and
 430 responsibilities under, as applicable, ss. 400.506 and 400.509.
 431 The rules shall include, but need not be limited to, which must
 432 ~~provide~~ reasonable and fair minimum standards relating to:

433 (1) The home health aide competency test and home health
 434 aide training. The agency shall create the home health aide
 435 competency test and establish the curriculum and instructor
 436 qualifications for home health aide training. Licensed home
 437 health agencies may provide this training and shall furnish
 438 documentation of such training to other licensed home health
 439 agencies upon request. Successful passage of the competency test
 440 by home health aides may be substituted for the training
 441 required under this section and any rule adopted pursuant
 442 thereto.

443 (2) Shared staffing. ~~The agency shall allow~~ Shared
 444 staffing is permitted if the home health agency is part of a
 445 retirement community that provides multiple levels of care, is
 446 located on one campus, is licensed under this chapter or chapter
 447 429, and otherwise meets the requirements of law and rule.

448 (3) The criteria for the frequency of onsite licensure
 449 surveys.

450 (4) Licensure application and renewal.

451 (5) Oversight by the director of nursing, including. ~~The~~
 452 ~~agency shall develop rules related to:~~

453 (a) Standards that address oversight responsibilities by
 454 the director of nursing of skilled nursing and personal care
 455 services provided by the home health agency's staff;

456 (b) Requirements for a director of nursing to provide to
 457 the agency, upon request, a certified daily report of the home
 458 health services provided by a specified direct employee or
 459 contracted staff member on behalf of the home health agency. The
 460 agency may request a certified daily report only for a period
 461 not to exceed 2 years before ~~prior to~~ the date of the request;
 462 and

463 (c) A quality assurance program for home health services
 464 provided by the home health agency.

465 (6) Conditions for using a recent unannounced licensure
 466 inspection for the inspection required in s. 408.806 related to
 467 a licensure application associated with a change in ownership of
 468 a licensed home health agency.

469 (7) The requirements for onsite and electronic
 470 accessibility of supervisory personnel of home health agencies.

471 (8) Information to be included in patients' records.

472 (9) Geographic service areas.

473 (10) Preparation of a comprehensive emergency management
 474 plan pursuant to s. 400.492.

475 ~~(a) The Agency for Health Care Administration shall adopt~~

476 ~~rules establishing minimum criteria for the plan and plan~~
477 ~~updates, with the concurrence of the Department of Health and in~~
478 ~~consultation with the Division of Emergency Management.~~

479 ~~(a)-(b)~~ An emergency plan ~~The rules must address the~~
480 ~~requirements in s. 400.492. In addition, the rules shall provide~~
481 for the maintenance of patient-specific medication lists that
482 can accompany patients who are transported from their homes.

483 ~~(b)-(c)~~ The plan is subject to review and approval by the
484 county health department. During its review, the county health
485 department shall contact state and local health and medical
486 stakeholders when necessary. The county health department shall
487 complete its review to ensure that the plan complies ~~is in~~
488 ~~accordance with the requirements of law~~ criteria in the Agency
489 ~~for Health Care Administration rules~~ within 90 days after
490 receipt of the plan and shall approve the plan or advise the
491 home health agency of necessary revisions. If the home health
492 agency fails to submit a plan or fails to submit the requested
493 information or revisions to the county health department within
494 30 days after written notification from the county health
495 department, the county health department shall notify the Agency
496 for Health Care Administration. The agency shall notify the home
497 health agency that its failure constitutes a deficiency, subject
498 to a fine of \$5,000 per occurrence. If the plan is not
499 submitted, information is not provided, or revisions are not
500 made as requested, the agency may impose the fine.

501 (c)~~(d)~~ For any home health agency that operates in more
 502 than one county, the Department of Health shall review the plan,
 503 after consulting with state and local health and medical
 504 stakeholders when necessary. The department shall complete its
 505 review within 90 days after receipt of the plan and shall
 506 approve the plan or advise the home health agency of necessary
 507 revisions. The department shall make every effort to avoid
 508 imposing differing requirements on a home health agency that
 509 operates in more than one county as a result of differing or
 510 conflicting comprehensive plan requirements of the counties in
 511 which the home health agency operates.

512 (d)~~(e)~~ The requirements in this subsection do not apply
 513 to:

514 1. A facility that is certified under chapter 651 and has
 515 a licensed home health agency used exclusively by residents of
 516 the facility; or

517 2. A retirement community that consists of residential
 518 units for independent living and either a licensed nursing home
 519 or an assisted living facility, and has a licensed home health
 520 agency used exclusively by the residents of the retirement
 521 community, provided the comprehensive emergency management plan
 522 for the facility or retirement community provides for continuous
 523 care of all residents with special needs during an emergency.

524 Section 7. Paragraph (f) of subsection (12) and subsection
 525 (17) of section 400.506, Florida Statutes, are amended to read:

526 400.506 Licensure of nurse registries; requirements;
 527 penalties.-

528 (12) Each nurse registry shall prepare and maintain a
 529 comprehensive emergency management plan that is consistent with
 530 the criteria in this subsection and with the local special needs
 531 plan. The plan shall be updated annually. The plan shall include
 532 the means by which the nurse registry will continue to provide
 533 the same type and quantity of services to its patients who
 534 evacuate to special needs shelters which were being provided to
 535 those patients prior to evacuation. The plan shall specify how
 536 the nurse registry shall facilitate the provision of continuous
 537 care by persons referred for contract to persons who are
 538 registered pursuant to s. 252.355 during an emergency that
 539 interrupts the provision of care or services in private
 540 residences. Nurse registries may establish links to local
 541 emergency operations centers to determine a mechanism by which
 542 to approach specific areas within a disaster area in order for a
 543 provider to reach its clients. Nurse registries shall
 544 demonstrate a good faith effort to comply with the requirements
 545 of this subsection by documenting attempts of staff to follow
 546 procedures outlined in the nurse registry's comprehensive
 547 emergency management plan which support a finding that the
 548 provision of continuing care has been attempted for patients
 549 identified as needing care by the nurse registry and registered
 550 under s. 252.355 in the event of an emergency under this

551 subsection.

552 ~~(f) The Agency for Health Care Administration shall adopt~~
 553 ~~rules establishing minimum criteria for the comprehensive~~
 554 ~~emergency management plan and plan updates required by this~~
 555 ~~subsection, with the concurrence of the Department of Health and~~
 556 ~~in consultation with the Division of Emergency Management.~~

557 ~~(17) The Agency for Health Care Administration shall adopt~~
 558 ~~rules to implement this section and part II of chapter 408.~~

559 Section 8. Subsection (7) of section 400.509, Florida
 560 Statutes, is amended to read:

561 400.509 Registration of particular service providers
 562 exempt from licensure; certificate of registration; regulation
 563 of registrants.—

564 ~~(7) The Agency for Health Care Administration shall adopt~~
 565 ~~rules to administer this section and part II of chapter 408.~~

566 Section 9. Subsection (8) of section 400.6095, Florida
 567 Statutes, is amended to read:

568 400.6095 Patient admission; assessment; plan of care;
 569 discharge; death.—

570 (8) The hospice care team may withhold or withdraw
 571 cardiopulmonary resuscitation if presented with an order not to
 572 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 573 ~~adopt rules providing for the implementation of such orders.~~

574 Hospice staff shall not be subject to criminal prosecution or
 575 civil liability, nor be considered to have engaged in negligent

576 or unprofessional conduct, for withholding or withdrawing
 577 cardiopulmonary resuscitation pursuant to such an order and
 578 applicable rules. The absence of an order to resuscitate
 579 executed pursuant to s. 401.45 does not preclude a physician
 580 from withholding or withdrawing cardiopulmonary resuscitation as
 581 otherwise permitted by law.

582 Section 10. Section 400.914, Florida Statutes, is amended
 583 to read:

584 400.914 Rulemaking; Rules establishing standards.—

585 ~~(1)~~ Pursuant to the intention of the Legislature to
 586 provide safe and sanitary facilities and healthful programs, the
 587 agency in conjunction with the Division of Children's Medical
 588 Services of the Department of Health may ~~shall~~ adopt ~~and publish~~
 589 rules to implement the provisions of this part and part II of
 590 chapter 408, ~~which shall include reasonable and fair standards.~~
 591 Any conflict between these rules ~~standards~~ and those standards
 592 that may be set forth in local, county, or city ordinances shall
 593 be resolved in favor of those having statewide effect. The rules
 594 shall include, but need not be limited to, reasonable and fair
 595 standards relating ~~Such standards shall relate~~ to:

596 (1) ~~(a)~~ The assurance that PPEC services are family
 597 centered and provide individualized medical, developmental, and
 598 family training services.

599 (2) ~~(b)~~ The maintenance of PPEC centers, not in conflict
 600 with the provisions of chapter 553 and based upon the size of

601 the structure and number of children, relating to plumbing,
 602 heating, lighting, ventilation, and other building conditions,
 603 including adequate space, which will ensure the health, safety,
 604 comfort, and protection from fire of the children served.

605 (c) The appropriate provisions of the most recent edition
 606 of the "Life Safety Code" (NFPA-101) shall be applied.

607 (d) The number and qualifications of all personnel who
 608 have responsibility for the care of the children served.

609 (e) All sanitary conditions within the PPEC center and its
 610 surroundings, including water supply, sewage disposal, food
 611 handling, and general hygiene, and maintenance thereof, which
 612 will ensure the health and comfort of children served.

613 (f) Programs and basic services promoting and maintaining
 614 the health and development of the children served and meeting
 615 the training needs of the children's legal guardians.

616 (g) Supportive, contracted, other operational, and
 617 transportation services.

618 (h) Maintenance of appropriate medical records, data, and
 619 information relative to the children and programs. Such records
 620 shall be maintained in the facility for inspection by the
 621 agency.

622 ~~(2) The agency shall adopt rules to ensure that:~~

623 ~~(a) No child attends a PPEC center for more than 12 hours~~
 624 ~~within a 24-hour period.~~

625 ~~(b) No PPEC center provides services other than those~~

626 ~~provided to medically or technologically dependent children.~~

627 Section 11. Section 400.9141, Florida Statutes, is created
628 to read:

629 400.9141 Limitations.-

630 (1) A child may not attend a PPEC center for more than 12
631 hours within a 24-hour period.

632 (2) A PPEC center may only provide those services that are
633 provided to medically or technologically dependent children.

634 Section 12. Paragraph (a) of subsection (20) of section
635 400.934, Florida Statutes, is amended to read:

636 400.934 Minimum standards.-As a requirement of licensure,
637 home medical equipment providers shall:

638 (20) (a) Prepare and maintain a comprehensive emergency
639 management plan that meets minimum criteria established by
640 agency rule, including the maintenance of patient equipment and
641 supply lists that can accompany patients who are transported
642 from their homes. Such rules shall be formulated in consultation
643 with the Department of Health and the Division of Emergency
644 Management under s. 400.935. The plan shall be updated annually

645 and shall provide for continuing home medical equipment services
646 for life-supporting or life-sustaining equipment, as defined in
647 s. 400.925, during an emergency that interrupts home medical
648 equipment services in a patient's home. The plan shall include:

649 1. The means by which the home medical equipment provider
650 will continue to provide equipment to perform the same type and

651 quantity of services to its patients who evacuate to special
 652 needs shelters which were being provided to those patients prior
 653 to evacuation.

654 2. The means by which the home medical equipment provider
 655 establishes and maintains an effective response to emergencies
 656 and disasters, including plans for:

657 a. Notification of staff when emergency response measures
 658 are initiated.

659 b. Communication between staff members, county health
 660 departments, and local emergency management agencies, which
 661 includes provisions for a backup communications system.

662 c. Identification of resources necessary to continue
 663 essential care or services or referrals to other organizations
 664 subject to written agreement.

665 d. Contacting and prioritizing patients in need of
 666 continued medical equipment services and supplies.

667 Section 13. Section 400.935, Florida Statutes, is amended
 668 to read:

669 400.935 Rulemaking authority ~~Rules establishing minimum~~
 670 ~~standards.~~—The agency shall adopt, ~~publish, and enforce~~ rules
 671 necessary to implement this part and part II of chapter 408. ~~r~~
 672 ~~which must provide reasonable and fair minimum standards~~
 673 ~~relating to:~~

674 ~~(1) The qualifications and minimum training requirements~~
 675 ~~of all home medical equipment provider personnel.~~

676 ~~(2) Financial ability to operate.~~

677 ~~(3) The administration of the home medical equipment~~
 678 ~~provider.~~

679 ~~(4) Procedures for maintaining patient records.~~

680 ~~(5) Ensuring that the home medical equipment and services~~
 681 ~~provided by a home medical equipment provider are in accordance~~
 682 ~~with the plan of treatment established for each patient, when~~
 683 ~~provided as a part of a plan of treatment.~~

684 ~~(6) Contractual arrangements for the provision of home~~
 685 ~~medical equipment and services by providers not employed by the~~
 686 ~~home medical equipment provider providing for the consumer's~~
 687 ~~needs.~~

688 ~~(7) Physical location and zoning requirements.~~

689 ~~(8) Home medical equipment requiring home medical~~
 690 ~~equipment services.~~

691 ~~(9) Preparation of the comprehensive emergency management~~
 692 ~~plan under s. 400.934 and the establishment of minimum criteria~~
 693 ~~for the plan, including the maintenance of patient equipment and~~
 694 ~~supply lists that can accompany patients who are transported~~
 695 ~~from their homes. Such rules shall be formulated in consultation~~
 696 ~~with the Department of Health and the Division of Emergency~~
 697 ~~Management.~~

698 Section 14. Subsection (5) of section 400.962, Florida
 699 Statutes, is amended to read:
 700 400.962 License required; license application.-

701 (5) The applicant must agree to provide or arrange for
 702 active treatment services by an interdisciplinary team to
 703 maximize individual independence or prevent regression or loss
 704 of functional status. ~~Standards for active treatment shall be~~
 705 ~~adopted by the Agency for Health Care Administration by rule~~
 706 ~~pursuant to ss. 120.536(1) and 120.54.~~ Active treatment services
 707 shall be provided in accordance with the individual support plan
 708 and shall be reimbursed as part of the per diem rate as paid
 709 under the Medicaid program.

710 Section 15. Subsections (2) and (3) of section 400.967,
 711 Florida Statutes, are amended to read:

712 400.967 Rules and classification of deficiencies.—

713 (2) ~~Pursuant to the intention of the Legislature,~~ The
 714 agency, in consultation with the Agency for Persons with
 715 Disabilities and the Department of Elderly Affairs, may ~~shall~~
 716 adopt ~~and enforce~~ rules necessary to administer this part and
 717 part II of chapter 408, which may ~~shall~~ include ~~reasonable and~~
 718 ~~fair~~ criteria governing:

719 (a) The location and construction of the facility;
 720 including fire and life safety, plumbing, heating, cooling,
 721 lighting, ventilation, and other housing conditions that ensure
 722 the health, safety, and comfort of residents. The agency shall
 723 establish standards for facilities and equipment to increase the
 724 extent to which new facilities and a new wing or floor added to
 725 an existing facility after July 1, 2000, are structurally

726 capable of serving as shelters only for residents, staff, and
 727 families of residents and staff, and equipped to be self-
 728 supporting during and immediately following disasters. The
 729 agency shall update or revise the criteria as the need arises.
 730 All facilities must comply with those lifesafety code
 731 requirements and building code standards applicable at the time
 732 of approval of their construction plans. The agency may require
 733 alterations to a building if it determines that an existing
 734 condition constitutes a distinct hazard to life, health, or
 735 safety. The agency may prescribe the ~~shall adopt fair and~~
 736 ~~reasonable rules setting forth~~ conditions under which existing
 737 facilities undergoing additions, alterations, conversions,
 738 renovations, or repairs are required to comply with the most
 739 recent updated or revised standards.

740 (b) The number and qualifications of all personnel,
 741 including management, medical nursing, and other personnel,
 742 having responsibility for any part of the care given to
 743 residents.

744 (c) All sanitary conditions within the facility and its
 745 surroundings, including water supply, sewage disposal, food
 746 handling, and general hygiene, which will ensure the health and
 747 comfort of residents.

748 (d) The equipment essential to the health and welfare of
 749 the residents.

750 (e) A uniform accounting system.

751 (f) The care, treatment, and maintenance of residents and
752 measurement of the quality and adequacy thereof.

753 (g) The preparation and annual update of a comprehensive
754 emergency management plan. After consultation with the Division
755 of Emergency Management, the agency may establish ~~shall adopt~~
756 ~~rules establishing~~ minimum criteria for the plan after
757 ~~consultation with the Division of Emergency Management. At a~~
758 ~~minimum, the rules must provide for~~ plan components that address
759 emergency evacuation transportation; adequate sheltering
760 arrangements; postdisaster activities, including emergency
761 power, food, and water; postdisaster transportation; supplies;
762 staffing; emergency equipment; individual identification of
763 residents and transfer of records; and responding to family
764 inquiries. The comprehensive emergency management plan is
765 subject to review and approval by the local emergency management
766 agency. During its review, the local emergency management agency
767 shall ensure that the following agencies, at a minimum, are
768 given the opportunity to review the plan: the Department of
769 Elderly Affairs, the Agency for Persons with Disabilities, the
770 Agency for Health Care Administration, and the Division of
771 Emergency Management. Also, appropriate volunteer organizations
772 must be given the opportunity to review the plan. The local
773 emergency management agency shall complete its review within 60
774 days and either approve the plan or advise the facility of
775 necessary revisions.

776 (h) The use of restraint and seclusion. Such rules must be
777 consistent with recognized best practices; prohibit inherently
778 dangerous restraint or seclusion procedures; establish
779 limitations on the use and duration of restraint and seclusion;
780 establish measures to ensure the safety of clients and staff
781 during an incident of restraint or seclusion; establish
782 procedures for staff to follow before, during, and after
783 incidents of restraint or seclusion, including individualized
784 plans for the use of restraints or seclusion in emergency
785 situations; establish professional qualifications of and
786 training for staff who may order or be engaged in the use of
787 restraint or seclusion; establish requirements for facility data
788 collection and reporting relating to the use of restraint and
789 seclusion; and establish procedures relating to the
790 documentation of the use of restraint or seclusion in the
791 client's facility or program record.

792 (3) ~~The agency shall adopt rules to provide that,~~ When the
793 criteria established under this part and part II of chapter 408
794 are not met, such deficiencies shall be classified according to
795 the nature of the deficiency. The agency shall indicate the
796 classification on the face of the notice of deficiencies as
797 follows:

798 (a) Class I deficiencies are those which the agency
799 determines present an imminent danger to the residents or guests
800 of the facility or a substantial probability that death or

801 serious physical harm would result therefrom. The condition or
802 practice constituting a class I violation must be abated or
803 eliminated immediately, unless a fixed period of time, as
804 determined by the agency, is required for correction. A class I
805 deficiency is subject to a civil penalty in an amount not less
806 than \$5,000 and not exceeding \$10,000 for each deficiency. A
807 fine may be levied notwithstanding the correction of the
808 deficiency.

809 (b) Class II deficiencies are those which the agency
810 determines have a direct or immediate relationship to the
811 health, safety, or security of the facility residents, other
812 than class I deficiencies. A class II deficiency is subject to a
813 civil penalty in an amount not less than \$1,000 and not
814 exceeding \$5,000 for each deficiency. A citation for a class II
815 deficiency shall specify the time within which the deficiency
816 must be corrected. If a class II deficiency is corrected within
817 the time specified, no civil penalty shall be imposed, unless it
818 is a repeated offense.

819 (c) Class III deficiencies are those which the agency
820 determines to have an indirect or potential relationship to the
821 health, safety, or security of the facility residents, other
822 than class I or class II deficiencies. A class III deficiency is
823 subject to a civil penalty of not less than \$500 and not
824 exceeding \$1,000 for each deficiency. A citation for a class III
825 deficiency shall specify the time within which the deficiency

826 must be corrected. If a class III deficiency is corrected within
 827 the time specified, no civil penalty shall be imposed, unless it
 828 is a repeated offense.

829 Section 16. Subsection (2) of section 400.980, Florida
 830 Statutes, is amended to read:

831 400.980 Health care services pools.—

832 (2) The requirements of part II of chapter 408 apply to
 833 the provision of services that require licensure or registration
 834 pursuant to this part and part II of chapter 408 and to entities
 835 registered by or applying for such registration from the agency
 836 pursuant to this part. Registration or a license issued by the
 837 agency is required for the operation of a health care services
 838 pool in this state. In accordance with s. 408.805, an applicant
 839 or licensee shall pay a fee for each license application
 840 submitted using this part, part II of chapter 408, and
 841 applicable rules. The agency shall ~~adopt rules and~~ provide forms
 842 required for such registration and shall impose a registration
 843 fee in an amount sufficient to cover the cost of administering
 844 this part and part II of chapter 408. In addition to the
 845 requirements in part II of chapter 408, the registrant must
 846 provide the agency with any change of information contained on
 847 the original registration application within 14 days prior to
 848 the change.

849 Section 17. Subsection (43) of section 409.912, Florida
 850 Statutes, is amended to read:

851 409.912 Cost-effective purchasing of health care.—The
 852 agency shall purchase goods and services for Medicaid recipients
 853 in the most cost-effective manner consistent with the delivery
 854 of quality medical care. To ensure that medical services are
 855 effectively utilized, the agency may, in any case, require a
 856 confirmation or second physician's opinion of the correct
 857 diagnosis for purposes of authorizing future services under the
 858 Medicaid program. This section does not restrict access to
 859 emergency services or poststabilization care services as defined
 860 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 861 shall be rendered in a manner approved by the agency. The agency
 862 shall maximize the use of prepaid per capita and prepaid
 863 aggregate fixed-sum basis services when appropriate and other
 864 alternative service delivery and reimbursement methodologies,
 865 including competitive bidding pursuant to s. 287.057, designed
 866 to facilitate the cost-effective purchase of a case-managed
 867 continuum of care. The agency shall also require providers to
 868 minimize the exposure of recipients to the need for acute
 869 inpatient, custodial, and other institutional care and the
 870 inappropriate or unnecessary use of high-cost services. The
 871 agency shall contract with a vendor to monitor and evaluate the
 872 clinical practice patterns of providers in order to identify
 873 trends that are outside the normal practice patterns of a
 874 provider's professional peers or the national guidelines of a
 875 provider's professional association. The vendor must be able to

876 provide information and counseling to a provider whose practice
 877 patterns are outside the norms, in consultation with the agency,
 878 to improve patient care and reduce inappropriate utilization.
 879 The agency may mandate prior authorization, drug therapy
 880 management, or disease management participation for certain
 881 populations of Medicaid beneficiaries, certain drug classes, or
 882 particular drugs to prevent fraud, abuse, overuse, and possible
 883 dangerous drug interactions. The Pharmaceutical and Therapeutics
 884 Committee shall make recommendations to the agency on drugs for
 885 which prior authorization is required. The agency shall inform
 886 the Pharmaceutical and Therapeutics Committee of its decisions
 887 regarding drugs subject to prior authorization. The agency is
 888 authorized to limit the entities it contracts with or enrolls as
 889 Medicaid providers by developing a provider network through
 890 provider credentialing. The agency may competitively bid single-
 891 source-provider contracts if procurement of goods or services
 892 results in demonstrated cost savings to the state without
 893 limiting access to care. The agency may limit its network based
 894 on the assessment of beneficiary access to care, provider
 895 availability, provider quality standards, time and distance
 896 standards for access to care, the cultural competence of the
 897 provider network, demographic characteristics of Medicaid
 898 beneficiaries, practice and provider-to-beneficiary standards,
 899 appointment wait times, beneficiary use of services, provider
 900 turnover, provider profiling, provider licensure history,

901 previous program integrity investigations and findings, peer
902 review, provider Medicaid policy and billing compliance records,
903 clinical and medical record audits, and other factors. Providers
904 are not entitled to enrollment in the Medicaid provider network.
905 The agency shall determine instances in which allowing Medicaid
906 beneficiaries to purchase durable medical equipment and other
907 goods is less expensive to the Medicaid program than long-term
908 rental of the equipment or goods. The agency may establish rules
909 to facilitate purchases in lieu of long-term rentals in order to
910 protect against fraud and abuse in the Medicaid program as
911 defined in s. 409.913. The agency may seek federal waivers
912 necessary to administer these policies.

913 (43) Subject to the availability of funds, the agency
914 shall mandate a recipient's participation in a provider lock-in
915 program, when appropriate, if a recipient is found by the agency
916 to have used Medicaid goods or services at a frequency or amount
917 not medically necessary, limiting the receipt of goods or
918 services to medically necessary providers after the 21-day
919 appeal process has ended, for a period of not less than 1 year.
920 The lock-in programs shall include, but are not limited to,
921 pharmacies, medical doctors, and infusion clinics. The
922 limitation does not apply to emergency services and care
923 provided to the recipient in a hospital emergency department.
924 The agency shall seek any federal waivers necessary to implement
925 this subsection. ~~The agency shall adopt any rules necessary to~~

926 ~~comply with or administer this subsection.~~ This subsection
 927 expires October 1, 2014.

928 Section 18. Subsections (4) and (5) of section 429.255,
 929 Florida Statutes, are amended to read:

930 429.255 Use of personnel; emergency care.—

931 (4) Facility staff may withhold or withdraw
 932 cardiopulmonary resuscitation or the use of an automated
 933 external defibrillator if presented with an order not to
 934 resuscitate executed pursuant to s. 401.45. ~~The department shall~~
 935 ~~adopt rules providing for the implementation of such orders.~~

936 Facility staff and facilities shall not be subject to criminal
 937 prosecution or civil liability, nor be considered to have
 938 engaged in negligent or unprofessional conduct, for withholding
 939 or withdrawing cardiopulmonary resuscitation or use of an
 940 automated external defibrillator pursuant to such an order and
 941 rules adopted by the department. The absence of an order to
 942 resuscitate executed pursuant to s. 401.45 does not preclude a
 943 physician from withholding or withdrawing cardiopulmonary
 944 resuscitation or use of an automated external defibrillator as
 945 otherwise permitted by law.

946 (5) The Department of Elderly Affairs may adopt rules to
 947 implement the provisions of this section ~~relating to use of an~~
 948 ~~automated external defibrillator.~~

949 Section 19. Subsection (3) of section 429.73, Florida
 950 Statutes, is amended to read:

951 429.73 Rules and standards relating to adult family-care
 952 homes.-

953 (3) ~~The department shall adopt rules providing for the~~
 954 ~~implementation of orders not to resuscitate.~~ The provider may
 955 withhold or withdraw cardiopulmonary resuscitation if presented
 956 with an order not to resuscitate executed pursuant to s. 401.45.
 957 The provider shall not be subject to criminal prosecution or
 958 civil liability, nor be considered to have engaged in negligent
 959 or unprofessional conduct, for withholding or withdrawing
 960 cardiopulmonary resuscitation pursuant to such an order and
 961 applicable rules.

962 Section 20. Subsection (10) of section 440.102, Florida
 963 Statutes, is amended to read:

964 440.102 Drug-free workplace program requirements.—The
 965 following provisions apply to a drug-free workplace program
 966 implemented pursuant to law or to rules adopted by the Agency
 967 for Health Care Administration:

968 (10) RULES.—~~The Agency for Health Care Administration~~
 969 ~~shall adopt rules~~ Pursuant to s. 112.0455, part II of chapter
 970 408, and criteria established by the United States Department of
 971 Health and Human Services, the agency shall adopt ~~a~~ general
 972 guidelines for modeling drug-free workplace laboratories,
 973 concerning, but not limited to:

974 (a) Standards for licensing drug-testing laboratories and
 975 suspension and revocation of such licenses.

976 (b) Urine, hair, blood, and other body specimens and
 977 minimum specimen amounts that are appropriate for drug testing.

978 (c) Methods of analysis and procedures to ensure reliable
 979 drug-testing results, including standards for initial tests and
 980 confirmation tests.

981 (d) Minimum cutoff detection levels for each drug or
 982 metabolites of such drug for the purposes of determining a
 983 positive test result.

984 (e) Chain-of-custody procedures to ensure proper
 985 identification, labeling, and handling of specimens tested.

986 (f) Retention, storage, and transportation procedures to
 987 ensure reliable results on confirmation tests and retests.

988 Section 21. Subsection (2) of section 483.245, Florida
 989 Statutes, is amended to read:

990 483.245 Rebates prohibited; penalties.—

991 (2) The agency may establish and ~~shall adopt~~ rules that
 992 assess administrative penalties for acts prohibited by
 993 subsection (1). In the case of an entity licensed by the agency,
 994 such penalties may include any disciplinary action available to
 995 the agency under the appropriate licensing laws. In the case of
 996 an entity not licensed by the agency, such penalties may
 997 include:

998 (a) A fine not to exceed \$1,000;

999 (b) If applicable, a recommendation by the agency to the
 1000 appropriate licensing board that disciplinary action be taken.

1001 Section 22. Subsection (2) of section 765.541, Florida
 1002 Statutes, is amended to read:

1003 765.541 Certification of procurement organizations; agency
 1004 responsibilities.—The agency shall:

1005 (2) Adopt rules necessary to implement ~~that set forth~~
 1006 ~~appropriate standards and guidelines for the program in~~
 1007 ~~accordance with~~ ss. 765.541-765.546 and part II of chapter 408.

1008 (a) These Standards and guidelines for the program adopted
 1009 by the agency must be substantially based on the ~~existing~~ laws
 1010 of the Federal Government and this state and the ~~existing~~
 1011 standards and guidelines of the United Network for Organ Sharing
 1012 (UNOS), the American Association of Tissue Banks (AATB), the
 1013 South-Eastern Organ Procurement Foundation (SEOPF), the North
 1014 American Transplant Coordinators Organization (NATCO), and the
 1015 Eye Bank Association of America (EBAA), existing as of January
 1016 1, 2014.

1017 (b) ~~In addition, the agency shall,~~ Before adopting these
 1018 standards and guidelines for the program, the agency shall, seek
 1019 input from all procurement organizations based in this state.

1020 Section 23. Subsection (2) of section 765.544, Florida
 1021 Statutes, is amended to read:

1022 765.544 Fees; organ and tissue donor education and
 1023 procurement.—

1024 ~~(2) The agency shall specify by rule the administrative~~
 1025 ~~penalties for the purpose of ensuring adherence to the standards~~

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1026 ~~of quality and practice required by this chapter, part II of~~
1027 ~~chapter 408, and applicable rules of the agency for continued~~
1028 ~~certification.~~

1029 Section 24. This act shall take effect July 1, 2014.